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Letter dated 26 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 14 August 2002 (S/2002/959).

The Counter-Terrorism Committee has received the attached supplementary report from Burkina Faso (see annex), submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 24 March 2003 from the Permanent Mission of Burkina Faso to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: French]

The Permanent Mission of Burkina Faso to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and, in reply to its note dated 8 August 2002, has the honour to transmit herewith the supplementary report submitted by the Government of Burkina Faso.

Enclosure

Supplementary information for the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Paragraph 1

– **Please explain how Burkina Faso intends to implement the International Convention for the Suppression of the Financing of Terrorism that is in the process of being ratified.**

Currently under consideration.

– **What provisions and procedures exist to freeze funds and other financial assets belonging to (suspected) terrorists?**

As indicated in the previous report, the Directive on the control of money-laundering in the States members of the West African Economic and Monetary Union (WAEMU), adopted at Cotonou on 19 September 2002, contains a fairly complete set of provisions which will enable Burkina Faso, along with other WAEMU countries, to combat money-laundering effectively.

The Directive provides for the establishment by decree of a National Financial Processing Unit (NFPU) in each country, which will be the linchpin of the effort to combat money-laundering.

The NFPU is composed of six senior officials from the various sectors involved in the control of money-laundering, in particular the customs authority, the treasury department, the police and the Central Bank of the West African States (BCEAO). BCEAO provides the secretariat for the Unit.

In accordance with article 35 of this Directive, the examining magistrate, at the request of the NFPU, can prescribe protective measures, in accordance with the law, by ordering, inter alia, at the expense of the State, the seizure or confiscation of assets related to the offence that is the object of the investigation and all elements that might assist in their identification, as well as the freezing of funds and financial operations connected with such assets.

Following the adoption of the Directive, BCEAO formulated a draft uniform law concerning the control of money-laundering, which supplements the Directive by establishing a set of penalties and specific rules governing international cooperation in respect of jurisdiction, judicial cooperation and extradition. A draft uniform law is being formulated for that purpose.

Thus, for instance, in accordance with article 36 of the draft uniform law, persons found guilty of money-laundering are subject to imprisonment for a term of three to seven years and to a fine equalling three times the value of the laundered assets or funds.

Penalties are envisaged for juridical persons found guilty of laundering, as well as for cartels, associations, and accomplices to the offence of money-laundering.

The member States of WAEMU are in the process of finalizing this draft law. The establishment of NFPUs will afford Burkina Faso and other WAEMU countries

a tool for combating money-laundering as well as a legal framework for those efforts.

For the time being, Burkina Faso is continuing to forward the lists of suspected terrorists which it receives to the Burkina Professional Association of Banks and Financial Institutions, along with formal instructions to freeze any assets held by these persons in the banks and financial institutions belonging to the Association.

– **Do financial institutions have to report suspicious transactions to a competent authority?**

Article 26 of the Directive requires a certain category of economic entities to declare all suspicious transactions to the NFPU.

Article 5 of the Directive defines the relevant economic entities as:

(a) The treasury departments of member States;

(b) BCEAO;

(c) Financial institutions;

(d) Members of the independent legal professions when they are representing or assisting clients in non-judicial activities, in particular in the following contexts:

– The buying and selling of assets, commercial enterprises or goodwill;

– Transactions of money, shares or other assets belonging to the client;

– The opening or management of bank accounts, savings accounts or stock portfolios;

– The formulation, operation or management of partnerships, trusts or similar structures and the performance of other financial operations.

(e) Other parties concerned, including:

– Business agents of financial institutions;

– Auditors;

– Real estate agents;

– Dealers in articles of great value, such as works of art (particularly paintings and masks), gemstones and precious metals;

– Cash couriers;

– Managers, owners or directors of casinos or gaming houses, including national lotteries;

– Travel agencies.

Subparagraph 2 (a)

– **Please outline the regulations dealing with the possession of firearms. What penalties apply to non-compliance with the regulations?**

In Burkina Faso, the manufacture, remodelling, acquisition, possession, transfer, bearing or transport of working firearms and ammunition are regulated by

inter-ministerial decree No. 2001-268/PRES/MATD/MEF/DEF/MJPDHY of 8 June 2001.

Under the provisions of this decree, no one may buy a firearm, or receive it as barter, gift, inheritance or bequest, unless he holds an authorization to purchase a firearm.

The authorization to purchase a firearm is signed by the Minister responsible for Security and before it can be obtained, an application must be filed with the competent authority. The applicant must then undergo an investigation of his moral standards. When the authorization is obtained, and the firearm has been purchased, a firearm permit is issued to the owner of the firearm.

Failure to abide by the provisions of the firearms decree is punishable by law. Article 537 of the Burkina Faso Penal Code provides that a person who, without having obtained legal authorization, manufactures, imports, possesses, transfers, sells or buys a firearm or ammunition is subject to one to five years' imprisonment and a fine of 300,000 to 1,500,000 CFA francs or to one of these two penalties.

– **What measures exist to prohibit recruitment to terrorist groups in Burkina Faso, operating either within its territory or abroad?**

It is important to stress that there is no terrorism in Burkina Faso. It is therefore difficult to speak of prohibiting the recruitment of terrorists there.

Subparagraph 2 (b):

– **Please describe the mechanism for providing early warning to other countries in case of anticipated terrorist activity**.

In addition to the standard early-warning procedure of the International Criminal Police Organization (Interpol), the chiefs of police in the subregion periodically hold meetings to harmonize their operational methods. As a result, the various data services and border units have been authorized to exchange information directly with regard to cross-border crime. The most recent meetings were:

17 and 18 May 2001: Meeting in Ouagadougou, Burkina Faso, involving the following high-ranking officials:

Director General of the Mali police;

High Commander of the Niger national police;

Chief of Staff of the Burkina Faso national police.

11 October 2001: meeting in Dakar, Senegal, of African chiefs of police.

Interpol provides the most frequently used channel for the exchange of information. An information exchange system for the member States of the Economic Community of West African States (ECOWAS) also exists, however, within the framework of the West African joint operations initiative.

Subparagraph 2 (c):

– **What measures exist to meet the requirement of this subparagraph?**

Under review.

Subparagraph 2 (d):

- **What provisions or procedures exist to prevent the territory of Burkina Faso being used for terrorist activity abroad?**

As already explained in the previous report, the measures taken to prevent the use of the territory of Burkina Faso for terrorist activity are essentially:

- The strengthening of monitoring capacities at all levels (land and air borders);
- The strengthening of intelligence services;
- The regular updating and dissemination, to all monitoring services, of lists of persons suspected of belonging to terrorist networks, in particular the al-Qa'idah network;
- Restrictions on the issuance of Burkina Faso residence permits to persons of certain nationalities.

In addition, the provisions of edict No. 84-49 of 4 August 1984, which establish the requirements for entering into, staying in, and departing from the territory of Burkina Faso for citizens and foreigners, impose strict controls enabling the expulsion from the country of any foreign national whose situation is irregular.

Subparagraph 2 (e):

- **Please explain whether the Penal Code contains provisions to criminalize terrorist acts, other than those mentioned in the report. If not, does Burkina Faso intend to introduce any specific provisions dealing with this aspect?**

The Burkina Faso Penal Code contains no relevant provisions other than those described in the initial report. However, in view of the scope of terrorism, Burkina Faso plans to introduce specific provisions into its legislation regarding this matter.

Subparagraph 2 (f):

- **What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings, including those relating to the financing or support of terrorist acts, must be met and how long would it take in practice to implement such a request in Burkina Faso?**
- **Please describe the procedures to provide assistance to other countries in criminal investigations or criminal proceedings relating to terrorism.**

Under review.

Subparagraph 2 (g):

- **Please describe the mechanism for inter-agency coordination between the authorities responsible for narcotics, financial tracking and security in regard to border control to prevent the movements of terrorist groups.**
- **Please outline the legislative provisions that have been adopted to strengthen the operational capacity to control the movement of terrorists, as referred to in the report.**

(1) The establishment of monitoring and police intervention units in all the major urban centres to support the activities of brigades, to increase general surveillance of the territory, improve control of the movements of persons, in particular suspicious persons, and intervene rapidly and effectively when terrorist acts occur (cf. decree no. 2002-027/DEF/CAB of 21 February 2002);

(2) On 26 July 1993, Burkina Faso established a national committee for drug control, made up of representatives of ministerial departments and members of the network of drug control associations. It is responsible for creating and implementing relevant national policy. The Committee has a regular secretariat whose task is to coordinate all drug control activities (prevention, punishment, treatment, reintegration). The secretariat is headed by a permanent secretary, assisted by technical staff.

Paragraph 3

- **Please provide a list of the countries, if any, with which Burkina Faso has concluded bilateral treaties on mutual legal assistance and extradition in matters relating to terrorism.**
- **The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Burkina Faso in:**
  - becoming a party to the instruments to which it is not yet a party; and
  - enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.
- **What provisions and procedures exist to meet the requirements of subparagraph 3 (f)?**
- **What is the legal basis for extradition? Is it governed by legislation, treaties, or both? Please outline any relevant provisions.**
- **Please explain whether claims of political motivation are recognized as grounds for refusing extradition of alleged terrorists.**

Under review.

Paragraph 4

- **Has Burkina Faso addressed any of the concerns expressed in paragraph 4 of the resolution?**

Under review.

Other matters:

Could Burkina Faso please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution?

Under review.

Assistance

The CTC notes the comment in section V of the report on Burkina Faso's capacity constraints in giving effect to resolution 1373. The CTC is exploring ways in which States can be assisted to fulfil the obligations in 1373. If such assistance would be helpful to Burkina Faso, it would be helpful to receive an indication of the areas in which assistance might be sought. The CTC would welcome such information in the further report requested by this letter, or separately, at any time.

An official request has already been made to the Committee.

All remaining information will be communicated to the Committee as soon as possible.